S-13-Civil

(1)

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

M.P. No. 1098/1994

PETITIONERS : 1. Ajay Batwe, S/O Shri. M.A. Batwe, aged 24 years, working as Sub Engineer on daily wages at Special Area Development Authority, Korba, Distt. Bilaspur, M.P.

7343

Filed on 31.7.94
by Shri Prashant Singh
Advocate

R. to D.R.
31-7-94

2. J.S. Dhillon, S/O Shri.M.S. Dhillon, aged 29 years, working as Sub Engineer on Daily Wages at Special Area Development Authority, Korba, Distt.Bilaspur, M.P.

Versus

RESPONDENTS : 1. State of M.P. through Secretary, Housing and Environment, Vallabh Bhawan, Bhopal, M.P.

2. Special Area Development Authority, Korba through its Chief Executive Officer, Distt. Bilaspur, M.P.

3. Chairman, Special Area Development Authority, Korba, Distt. Bilaspur, M.P.

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

The above named petitioners submit as hereunder:

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HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

Writ Petition No. 914 of 1994

Devendra Kumar Swarnkar & others

-Versus-

Municipal Corporation & another

Writ Petition No. 748 of 1994

Keshav Prasad Gupta

-Versus-

State of M.P. & others

Writ Petition No. 1078 of 1994

Ajay Batwe & another

-Versus-

State of M.P. & others

Single Bench : **Hon'ble Mr. Justice Satish K. Agnihotri**

Present:

Shri Jitendra Pali, counsel for the petitioners.
Shri Sanjay K. Agrawal, counsel for the Municipal Corporation.
Shri Sushil Dubey, Government Advocate for the State.

ORDER

(24th August, 2005)

1. The present Writ Petitions, being Writ Petitions No. 914/1994, 748/1994 and 1078/1994 involve common questions of fact and law. Thus, these petitions are being disposed of by this common order.
2. Petitioners in W.P. No. 914/1994 were appointed on daily wages basis on various posts, as follows,

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Sr. No.	Names of the Petitioners	Post which appointed	Date of Joining
1.	Devendra Kumar Swarnkar	Tracer	7.1.92
2.	Anand Kumar Dubey	L.D.C.	2.8.91
3.	Arun Kumar Mishra	L.D.C.	2.8.91
4.	Govind Paliwal	L.D.C.	7.1.92
5.	Uttam Kumar Vishwas	Typist	2.8.91
6.	Pukharaj Singh	Assistant Auctroy	3.8.91
7.	Chain Singh Yadav	Moharir	3.8.91
8.	Rampal Singh	Moharir	3.8.91
9.	Nagendra Kumar Tiwari	Moharir	3.8.91
10.	Kapil Kumar Shrivastava	L.D.C.	3.8.91
11.	Akhilesh Kumar Shukla	Sub-Engineer	23.6.92
12.	Shantilal Soni	Nakedar	Dec. 91

Petitioner in W.P. No. 748/1994 was appointed on 18.8.1992 (Annexure P/3) as Sub-Engineer (Civil) for 89 days on temporary basis and his appointment was continued by various orders passed time and again thereafter. Petitioners in W.P. No. 1078/1994 were appointed as Sub- Engineers on temporary basis on 1.4.1991 and 15.7.1991 respectively.

3. All the Petitioners continued in employment till 2.3.1994. Their services were discontinued on the ground as no longer required.
4. Shri Sanjay K. Agrawal, learned counsel appearing for the authority/Corporation in all the petitions submits that the petitioner No. 1 in W.P. No. 1078/1994 has left the authority. Admittedly, the petitioners were appointed on daily wages basis neither in accordance with law nor in accordance with the constitutional scheme.
5. The petitioners have challenged the impugned termination orders by filing various writ petitions, as stated above.

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6. The High Court of Judicature at Jabalpur, while issuing notice, granted stay of the operation of the impugned orders, on 7.4.1994 in W.P. No. 914/1994, on 9.3.1994 in W.P. No. 748/1994 and on 13.4.1994 in W.P. No. 1078/1994. By virtue of the stay orders granted by the High Court of Judicature at Jabalpur, the petitioners are continuing in service as daily wagers.

7. On creation of new State of Chhattisgarh and the High Court of Chhattisgarh at Bilaspur, the writ petitions were transferred to this Court.

8. Be that as it may, the petitioners cannot claim any right to continuation or regularization in view of the decision of a Constitutional Bench of Hon'ble the Supreme Court in the case of Secretary, State of Karnataka and others Vs. Umadevi (3) and others[1].

9. Learned counsel appearing for the petitioners submits that the authority/Corporation has recommended names of the some of the petitioners to the State Government for regularization by letter dated 28.5.2001 (Annexure A/2) in W.P. No. 914/1994.

10. The Supreme Court in another decision passed in the case of Mineral Exploration Corporation Employees' Union Vs. Mineral Exploration Corporation Limited & Anr.[2] relying on the decision of the Constitution Bench in the case of Secretary, State of Karnataka and others Vs. Umadevi (3) and others (Supra) observed in para 17, as under :-

> "Para 17. It is seen from the above paragraph that this Court directed the Union of India, the State Governments and their instrumentalities to regularize as a one-time measure, the services of such irregularly appointed workman, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaking to fill those vacant sanctioned posts that require to be filled up, in

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[1]{(2006) 4 Supreme Court Cases 1}
[2]{JT 2006 (7) SC 151}

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cases where temporary employees or daily wagers are being now employed"

11. In view of the mandate of the Supreme Court in the above referred cases, the authority/Corporation is directed to consider cases of the petitioners in terms of the directions passed by the Supreme Court in the above stated cases.

12. These petitions are accordingly disposed of with the aforesaid direction. No order as to costs.

13. A copy of this order be placed in the record of the two connected writ petitions.

Sd/-
Satish K. Agnihotri
Judge

Bablu